



General Assembly

Amendment

January Session, 2015

LCO No. 8474



Offered by:
SEN. KISSEL, 7th Dist.

To: Senate Bill No. **446**

File No. 254

Cal. No. 202

(As Amended by Senate Amendment Schedule "A")

"AN ACT CONCERNING THE DEFINITION OF THE TERM "DOMESTIC WORKER".

1 Strike section 507 in its entirety and substitute the following in lieu
2 thereof:

3 "Sec. 507. Section 46a-83 of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective October 1, 2015*):

5 (a) [Within twenty] Not later than fifteen days after the date of filing
6 of any discriminatory practice complaint pursuant to subsection (a) or
7 (b) of section 46a-82, as amended by this act, or an amendment to such
8 complaint adding an additional respondent, the commission shall
9 [provide] serve the respondent [by first class mail, facsimile machine,
10 electronic mail or a file transfer protocol site] as provided in section
11 46a-86a with the complaint and a notice advising of the procedural
12 rights and obligations of a respondent under this chapter. [The
13 respondent shall file a written answer to the complaint under oath

14 with the commission within thirty days of receipt of the complaint,
15 provided a respondent may request, and the commission may grant,
16 for good cause shown, one extension of time of fifteen days within
17 which to file an answer to a complaint. The answer to any complaint
18 alleging a violation of section 46a-64c or 46a-81e shall be filed within
19 ten days of receipt.] The respondent shall either (1) file a written
20 answer to the complaint as provided in subsection (b) of this section,
21 or (2) not later than ten days after the date of receipt of the complaint,
22 provide written notice to the complainant and the commission that the
23 respondent has elected to participate in pre-answer conciliation, except
24 that a discriminatory practice complaint alleging a violation of section
25 46a-64c or 46a-81e shall not be subject to pre-answer conciliation. A
26 complaint sent by first class mail shall be considered to be received not
27 later than two days after the date of mailing, unless the respondent
28 proves otherwise. A complaint sent by facsimile machine, electronic
29 mail or file transfer protocol site shall be considered to be received on
30 the date on which it was sent. The commission shall conduct a pre-
31 answer conciliation conference not later than thirty days after the date
32 of receiving the respondent's request for pre-answer conciliation.

33 (b) Except as provided in this subsection, not later than thirty days
34 after the date (1) of receipt of the complaint, or (2) on which the
35 commission determines that the pre-answer conciliation conference
36 was unsuccessful, the respondent shall file a written answer to the
37 complaint, under oath, with the commission. The respondent may
38 request, and the commission may grant, one extension of time of not
39 more than fifteen days within which to file a written answer to the
40 complaint. An answer to any amendment to a complaint shall be filed
41 within twenty days of the date of receipt to such amendment. The
42 answer to any complaint alleging a violation of section 46a-64c or 46a-
43 81e shall be filed not later than ten days after the date of receipt of the
44 complaint.

45 [(b)] (c) [Within ninety] Not later than sixty days after the date of the
46 filing of the respondent's answer, [to the complaint,] the executive

47 director or the executive director's designee shall conduct a [merit]
48 case assessment review to determine whether the complaint should be
49 retained for further processing or dismissed because (1) it fails to state
50 a claim for relief or is frivolous on its face, (2) the respondent is exempt
51 from the provisions of this chapter, or (3) there is no reasonable
52 possibility that investigating the complaint will result in a finding of
53 reasonable cause. No complaint may be dismissed unless a
54 commission legal counsel approves the dismissal. The [merit] case
55 assessment review shall include the complaint, the respondent's
56 answer and the responses to the commission's requests for
57 information, [if any,] and the complainant's comments, if any, to the
58 respondent's answer and information responses. [If the executive
59 director or the executive director's designee determines that the
60 complaint fails to state a claim for relief or is frivolous on its face, that
61 the respondent is exempt from the provisions of this chapter or that
62 there is no reasonable possibility that investigating the complaint will
63 result in a finding of reasonable cause, the executive director or the
64 executive director's designee shall dismiss the complaint and send
65 notice of dismissal pursuant to section 46a-86a. Within fifteen days of
66 the sending of the notice of dismissal, the complainant may request a
67 release of jurisdiction allowing the complainant to bring a civil action
68 under section 46a-100. If the complainant does not request a release of
69 jurisdiction, commission legal counsel shall conduct a legal review of
70 any complaint dismissed pursuant to this subsection and shall
71 reinstate or deny reinstatement of the complaint within sixty days of
72 the sending of the notice of dismissal. The executive director or the
73 executive director's designee shall send notice of any action taken
74 pursuant to the merit assessment review and the legal review
75 conducted pursuant to this subsection in accordance with section 46a-
76 86a.] The executive director or the executive director's designee shall
77 send notice of any action taken pursuant to the case assessment review
78 in accordance with section 46a-86a. For any complaint dismissed
79 pursuant to this subsection, the executive director or the executive
80 director's designee shall issue a release of jurisdiction allowing the
81 complainant to bring a civil action under section 46a-100, as amended

82 by this act. This subsection and subsection (e) of this section shall not
83 apply to any complaint alleging a violation of section 46a-64c or 46a-
84 81e. The executive director shall report the results of the [merit] case
85 assessment reviews made pursuant to this subsection to the
86 commission quarterly during each year.

87 [(c) (1) If a complaint is not dismissed after the merit assessment
88 review pursuant to subsection (b) of this section or if a complaint is
89 reinstated after legal review pursuant to said subsection (b), the]

90 (d) Not later than sixty days after the date of sending notice that a
91 complaint has been retained after a case assessment review, the
92 executive director or the executive director's designee shall assign an
93 investigator or commission legal counsel to hold a mandatory
94 mediation conference, [within sixty days of sending notice of action
95 taken pursuant to the merit assessment review or legal review.] A
96 mediation conference may but need not be held if the commission has
97 held a pre-answer conciliation conference. The investigator or
98 commission legal counsel assigned to conduct the mediation shall not
99 be assigned to investigate the complaint. The mandatory mediation
100 conference may not be scheduled for the same time as a fact-finding
101 conference held pursuant to subsection [(d)] (f) of this section. The
102 mediator may hold additional mediation conferences to accommodate
103 settlement discussions.

104 [(2)] (e) If the complaint is not resolved after the mandatory
105 mediation conference, the complainant, the respondent or the
106 commission may at any time after such conference request early legal
107 intervention. If a request for early legal intervention is made, [the
108 executive director or the executive director's designee] a commission
109 legal counsel shall determine [within] not later than ninety days after
110 the date of the request whether [(A)] the complaint should be (1) heard
111 pursuant to section 46a-84, as amended by this act, [(B) the complaint
112 should be] (2) processed pursuant to subsection [(d)] (f) of this section,
113 or [(C) the complainant should be] (3) released from the jurisdiction of
114 the commission. In making such determination, [the executive director

115 or the executive director's designee] commission legal counsel may
116 hold additional proceedings and may utilize and direct commission
117 staff. If [the executive director or the executive director's designee] a
118 commission legal counsel determines that the complaint should be
119 processed pursuant to subsection [(d)] (f) of this section, [the executive
120 director or the executive director's designee] the commission legal
121 counsel may recommend that the investigator make a finding of no
122 reasonable cause. [If the executive director or the executive director's
123 designee recommends that the investigator make a finding of no
124 reasonable cause, the] The investigator shall make such a finding
125 unless the investigator believes [the executive director or the executive
126 director's designee] the commission legal counsel made a mistake of
127 fact. If the investigator intends to make a finding of reasonable cause
128 after [the executive director or the executive director's designee] the
129 commission legal counsel recommends otherwise, the investigator
130 shall consult with [the executive director or the executive director's
131 designee] the commission legal counsel.

132 [(3) If the complaint is not resolved after the mandatory mediation
133 conference, the complainant or the respondent may request the
134 commission to hold additional mediation conferences.

135 (4) The commission may dismiss the complaint if (A) a complainant,
136 after notice and without good cause, fails to attend a mandatory
137 mediation conference; or (B) the respondent has eliminated the
138 discriminatory practice complained of, taken steps to prevent a like
139 occurrence in the future and offered full relief to the complainant, even
140 though the complainant has refused such relief.

141 (d) If the complaint is not resolved after the mandatory mediation
142 conference held pursuant to subsection (c) of this section or the
143 executive director determines that the complaint should be processed
144 pursuant to this subsection in accordance with subdivision (2) of
145 subsection (c) of this section,]

146 (f) Not later than fifteen days after the date of a (1) a mandatory

147 mediation conference that fails to resolve a complaint, or (2) an early
148 legal intervention decision to investigate a complaint, the executive
149 director or the executive director's designee shall assign an investigator
150 to process the complaint. [within fifteen days after the mandatory
151 mediation conference.] The investigator may [conduct a fact-finding
152 conference, a complete investigation,] process the complaint by any
153 lawful means of finding facts, including, but not limited to, a fact-
154 finding conference, individual witness interviews, requests for
155 voluntary disclosure of information, subpoenas of witnesses or
156 documents, requests for admission of facts, interrogatories, site visits
157 or any [other lawful means of finding facts, or any combination
158 thereof] combination of these means for the purpose of determining
159 [if] whether there is reasonable cause for believing that a
160 discriminatory practice has been or is being committed as alleged in
161 the complaint. As used in this section and section 46a-84, as amended
162 by this act, "reasonable cause" means a bona fide belief that the
163 material issues of fact are such that a person of ordinary caution,
164 prudence and judgment could believe the facts alleged in the
165 complaint. [The executive director or the executive director's designee
166 may dismiss the complaint if the complainant, after notice, and
167 without good cause, fails to attend a fact-finding conference.]

168 [(e)] (g) (1) Before issuing a finding of reasonable cause or no
169 reasonable cause, the investigator shall afford each party and each
170 party's representative an opportunity to provide written or oral
171 comments on all evidence in the commission's file, except as otherwise
172 provided by federal law or the general statutes. The investigator shall
173 consider such comments before making a finding. The investigator
174 shall make a finding of reasonable cause or no reasonable cause in
175 writing and shall list the factual findings on which it is based not later
176 than one hundred ninety days from the date of the [merit] case
177 assessment review, except that for good cause shown, the executive
178 director or the executive director's designee may grant no more than
179 two extensions of the investigation of three months each.

180 (2) If the investigator makes a finding that there is reasonable cause
181 to believe that a violation of section 46a-64c has occurred, the
182 complainant and the respondent shall have twenty days from sending
183 of the reasonable cause finding to elect a civil action in lieu of an
184 administrative hearing pursuant to section 46a-84, as amended by this
185 act. If either the complainant or the respondent requests a civil action,
186 the commission, through the Attorney General or a commission legal
187 counsel, shall commence an action pursuant to subsection (b) of section
188 46a-89, [within] as amended by this act, not later than ninety days after
189 the date of receipt of the notice of election. If the Attorney General or a
190 commission legal counsel believes that injunctive relief, punitive
191 damages or a civil penalty would be appropriate, such relief, damages
192 or penalty may also be sought. The jurisdiction of the Superior Court
193 in an action brought under this subdivision shall be limited to such
194 claims, counterclaims, defenses or the like that could be presented at
195 an administrative hearing before the commission, had the complaint
196 remained with the commission for disposition. A complainant may
197 intervene as a matter of right in a civil action without permission of the
198 court or the parties. If the Attorney General or commission legal
199 counsel, as the case may be, determines that the interests of the state
200 will not be adversely affected, the complainant or attorney for the
201 complainant shall present all or part of the case in support of the
202 complaint. If the Attorney General or a commission legal counsel
203 determines that a material mistake of law or fact has been made in the
204 finding of reasonable cause, the Attorney General or a commission
205 legal counsel may decline to bring a civil action and shall remand the
206 file to the investigator for further action. The investigator shall
207 complete any such action not later than ninety days after receipt of
208 such file.

209 [(f)] (h) If the investigator issues a finding of no reasonable cause or
210 if the complaint is dismissed pursuant to subsection [(d)] (m) of this
211 section, the complainant may file a written request for reconsideration
212 with the executive director or the executive director's designee, not
213 later than fifteen days from the sending of such finding or dismissal. A

214 request for reconsideration shall state specifically the reasons why
215 reconsideration should be granted. [The executive director or the
216 executive director's designee] A commission legal counsel shall grant
217 or reject reconsideration [within] not later than ninety days after the
218 date of the sending of such finding or dismissal. [The executive
219 director or the executive director's designee] A commission legal
220 counsel shall conduct such additional proceedings as may be necessary
221 to render a decision on the request.

222 [(g)] (i) After finding that there is reasonable cause to believe that a
223 discriminatory practice has been or is being committed as alleged in
224 the complaint, an investigator shall attempt to eliminate the practice
225 complained of by conference, conciliation and persuasion [within] not
226 later than fifty days after the date of the finding. The refusal to accept a
227 settlement shall not be grounds for dismissal of any complaint.

228 [(h)] (j) No commissioner or employee of the commission may
229 disclose, except to the parties or their representatives, what has
230 occurred in the course of [such endeavors] the commission's
231 processing of a complaint, provided the commission may publish the
232 facts in the case and any complaint [which] that has been dismissed
233 and the terms of conciliation when a complaint has been adjusted.
234 Each party and his or her representative shall have the right to inspect
235 and copy documents, statements of witnesses and other evidence
236 pertaining to the complaint, except as otherwise provided by federal
237 law or the general statutes.

238 [(i)] (k) In the investigation of any complaint filed pursuant to this
239 chapter, [the] commission legal counsel may issue subpoenas requiring
240 the production of records and other documents or compelling the
241 attendance of witnesses.

242 [(j)] (l) The executive director or the executive director's designee
243 may enter an order of default against a respondent who (1) after
244 notice, fails to answer a complaint in accordance with subsection (a) of
245 this section or within such extension of time as may have been granted;

246 (2) fails to answer interrogatories issued pursuant to subdivision (11)
 247 of section 46a-54 or fails to respond to a subpoena issued pursuant to
 248 subsection [(i)] (k) of this section or subdivision (9) of section 46a-54,
 249 provided the executive director or the executive director's designee
 250 shall consider any timely filed objection; (3) after notice and without
 251 good cause, fails to attend a fact-finding conference; or (4) after notice
 252 and without good cause, fails to attend a mandatory mediation
 253 conference. The respondent may make application to the executive
 254 director to vacate the default. Upon entry of an order of default or
 255 upon the decision of the executive director not to vacate the default,
 256 the executive director or the executive director's designee shall appoint
 257 a presiding officer to enter, after notice and hearing, an order
 258 eliminating the discriminatory practice complained of and making the
 259 complainant whole. The commission or the complainant may petition
 260 the Superior Court for enforcement of any order for relief pursuant to
 261 section 46a-95.

262 (m) The executive director or the executive director's designee may
 263 enter an order of dismissal against a complainant who (1) after notice
 264 and without good cause, fails to attend a fact-finding conference; (2)
 265 after notice and without good cause, fails to attend a mandatory
 266 mediation conference; or (3) refuses to accept an offer of settlement
 267 where the respondent has eliminated the discriminatory practice
 268 complained of, taken steps to prevent a like occurrence in the future
 269 and offered full relief to the complainant."

This act shall take effect as follows and shall amend the following sections:		
Sec. 501	October 1, 2015	46a-56(c)
Sec. 502	October 1, 2015	46a-56(d)
Sec. 503	October 1, 2015	46a-57(d)
Sec. 504	October 1, 2015	46a-58(a)
Sec. 505	October 1, 2015	46a-82(a)
Sec. 506	October 1, 2015	46a-82e
Sec. 507	October 1, 2015	46a-83
Sec. 508	October 1, 2015	46a-83a

Sec. 509	<i>October 1, 2015</i>	46a-84
Sec. 510	<i>October 1, 2015</i>	46a-86
Sec. 511	<i>October 1, 2015</i>	46a-89
Sec. 512	<i>October 1, 2015</i>	46a-90a
Sec. 513	<i>October 1, 2015</i>	46a-94a
Sec. 514	<i>October 1, 2015</i>	46a-98(a)
Sec. 515	<i>October 1, 2015</i>	46a-98a
Sec. 516	<i>October 1, 2015</i>	46a-100
Sec. 517	<i>October 1, 2015</i>	46a-101
Sec. 518	<i>October 1, 2015</i>	46a-82c(b)
Sec. 519	<i>October 1, 2015</i>	46a-55(b)